

DOCKET FILE COPY ORIGINAL

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

RECEIVED

JUL 17 1996

Federal Communications Commission  
Office of Secretary

In the Matter of

Billed Party Preference for  
InterLATA 0+ Calls

CC Docket No. 92-77

---

COMMENTS OF  
THE TELECOMMUNICATIONS RESELLERS ASSOCIATION

---

TELECOMMUNICATIONS  
RESELLERS ASSOCIATION

Charles C. Hunter  
Catherine M. Hannan  
HUNTER & MOW, P.C.  
1620 I Street, N.W.  
Suite 701  
Washington, D.C. 20006  
(202) 293-2500

July 17, 1996

Its Attorneys

No. of Copies rec'd  
List ABCDE

029

## **TABLE OF CONTENTS**

	<b>Page</b>
SUMMARY .....	ii
I. INTRODUCTION ..	1
II. ARGUMENT .....	4
A. Consumer Safeguards Should Be Bolstered Through the Establishment of Benchmarks for OSP Rates and Charges Corresponding to Consumer Expectations .....	4
B. The Commission Should Adopt a Consumer-focused Notification Procedure for OSP Rates Exceeding Established Benchmarks .....	6
C. The Commission Should Adopt Procedures for Periodically Adjusting Benchmarks to Account for Rate Increases by the Largest OSPs .....	8
III. CONCLUSION ...	9

## **SUMMARY**

The Telecommunications Resellers Association ("TRA"), an organization consisting of more than 450 interexchange, international, local and wireless resale carriers and their underlying product and service suppliers, offers the following comments in connection with the implementation of the Commission's proposed adoption of benchmarks for consumer rates and associated charges of Operator Service Providers ("OSPs") and the imposition of a notification obligation on OSPs providing service at rates exceeding those benchmarks:

- TRA supports adoption a federal benchmark for OSP rates and associated charges which is based upon and corresponds to consumer expectations. As the Commission has noted, however, certain OSP services may incur unique costs which would necessarily affect the rates at which those services may be offered to consumers. TRA urges the Commission, therefore, to maintain sufficient flexibility in the respective benchmarks in order to facilitate the ability of carriers to accommodate such non-standard costs while still remaining within the benchmark range. Additionally, it is not readily apparent to TRA that a 15% price margin, added to the average rates charged by the largest OSPs, will adequately accommodate the pricing flexibility which will be required by OSPs.
- TRA agrees with the Commission that consumers are entitled to notice that a carrier's rates may exceed established benchmarks for OSP calls; however, an obligation to announce rates at the beginning of every call is unworkable as a practical alternative because such a notification would significantly delay the processing of the call and would not noticeably advance the Commission's goal of affording the consumer sufficient information on which to base an informed decision since the consumer would not be provided with the information necessary to place the rate in context. Indeed, a single "rate" announcement would not even alert the consumer that OSP rate benchmarks exist, much less that the carrier's rates exceed those benchmarks.
- In order that any such OSP announcement may be meaningful to the consumer without unduly delaying the processing of OSP calls, TRA urges the Commission to adopt a notice requirement pursuant to which carriers whose rates exceed the established benchmark for any one of the 528 permutations of OSP calls identified by the Commission must announce at the beginning of the call the percentage by which the call may exceed those benchmarks; further, the percentage announced must represent the largest amount by which any of the carrier's OSP rates exceeds the respective benchmarks.

- Finally, TRA endorses the Commission's tentative conclusion that the benchmarks should be determined annually in January, to become effective the following June, and that carriers may immediately meet rate increases by the largest OSPs occasioned by increased industry cost. TRA nonetheless urges the Commission to establish a procedure for periodically revising the benchmarks to adjust for rate increases by the largest OSPs in order that other OSPs not be burdened with compliance obligations tied to outdated OSP rate data.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**In the Matter of**

**Billed Party Preference for  
InterLATA 0+ Calls**

**CC Docket No. 92-77**

**COMMENTS OF  
THE TELECOMMUNICATIONS RESELLERS ASSOCIATION**

The Telecommunications Resellers Association ("TRA"), through undersigned counsel and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.1415, hereby submits its Comments in response to the Second Further Notice of Proposed Rulemaking, FCC 96-253, released by the Commission in the above-captioned docket on June 6, 1996 (the "Notice"). The Notice seeks comment on the advisability of adopting benchmarks for consumer rates and associated charges of Operator Service Providers ("OSPs") and imposing a notification obligation on OSPs providing service at rates exceeding those benchmarks.

**I.**

**INTRODUCTION**

TRA is an industry association charged with fostering and promoting telecommunications resale, supporting the telecommunications resale industry and protecting the interests of entities engaged in the resale of telecommunications services. TRA's more than 450 members are all either actively engaged in the resale of interexchange, international, local

exchange, wireless and other services or in the provision of products and services associated with such resale.<sup>1</sup>

Over two years ago, the Commission sought comment on the costs and benefits of implementing a "billed party preference" ("BPP") system for 0+ interLATA payphone calls, the establishment of which the Commission tentatively concluded would be in the public interest in May of 1994.<sup>2</sup> At that time, TRA joined numerous other commenters in arguing that the immediate deployment of BPP would not result in an increase to consumer protection commensurate with the technical and financial burdens necessary to implement the system.<sup>3</sup> While the emergence of local number portability may eventually lessen the costs of implementing

---

<sup>1</sup> Employing the transmission, and often the switching and other, capabilities of underlying facilities-based carriers, TRA's resale carrier members create "virtual networks" to serve generally small and mid-sized commercial, as well as residential, customers, providing such entities and individuals with access to rates otherwise available only to much larger users. TRA's resale carrier members also offer small and mid-sized commercial customers enhanced, value-added products and services, including a variety of sophisticated billing options, as well as personalized customer support functions, that are generally reserved for large-volume corporate users.

While TRA's resale carrier members range from emerging, high-growth companies to well-established, publicly-traded corporations, the bulk of these entities are not yet a decade old. Nonetheless, TRA's resale carrier members collectively serve millions of residential and commercial customers and generate annual revenues in the billions of dollars. The emergence and dramatic growth of TRA's resale carrier members over the past five to ten years have produced thousands of new jobs and new commercial opportunities. In addition, TRA's resale carrier members have facilitated the growth and development of second- and third-tier facilities-based interexchange carriers by providing an extended, indirect marketing arm for their services, thereby further promoting economic growth and development. And perhaps most critically, by providing cost-effective, high quality telecommunications services to the small business community, TRA's resale carrier members have helped other small and mid-sized companies expand their businesses and generate new employment opportunities.

<sup>2</sup> Billed Party Preference for 0+ InterLATA Calls, Further Notice of Proposed Rulemaking, 9 FCC Rcd 3320 (1994).

<sup>3</sup> *See generally*, Reply Comments of the Telecommunications Resellers Association, CC Docket No. 92-77, September 14, 1994.

BPP, TRA agrees with the Commission that at present, costs continue to significantly outweigh the benefits BPP would provide consumers.

Until such time as BPP can be implemented in a cost-effective manner, TRA supports the Commission's proposal to bolster consumer safeguards through the establishment of "benchmarks for OSPs' consumer rates and associated charges that reflect what consumers expect to pay".<sup>4</sup> TRA also agrees with the Commission that informed consumer decisions concerning telecommunications services generally and OSP services in particular should be encouraged, and in large measure will be encouraged, through the imposition of a notification obligation on OSPs whose consumer rates and charges exceed those benchmark levels. The appropriate format for such an announcement should be developed by balancing the benefits to consumers against the inconveniences to those consumers inherent in any notification process.

In TRA's view, the most effective presentation of OSP rate information would result from a consumer notification procedure which is brief enough to prevent the consumer from noticeably perceiving a prolonged call processing time but which nonetheless provides sufficient information from which the consumer may make a comparison between the rate that will be charged and a "reasonable" OSP rate. TRA respectfully submits that an announcement of a solitary dollar amount, whether that value is the precise amount that will be charged or represents an "average" call charge, will not provide sufficient comparison value to significantly aid the consumer. An announcement linked not to a solitary dollar amount, but rather to the benchmark itself, would quickly alert the consumer to both the existence of the OSP benchmark

---

<sup>4</sup> Notice, FCC 96-253 at ¶ 3.

and to the fact that the OSP may be charging rates up to a specified percentage in excess of that benchmark level.

Finally, TRA supports the Commission's decision to annually determine OSP benchmark levels and commends the Commission for its efforts to structure a benchmark system which will obviate, to a great extent, the necessity of repeated rate adjustments by OSPs during the 12-month period those benchmarks are in effect. TRA nonetheless urges the Commission to establish a procedure for periodically revising those benchmarks as necessary to adjust for any rate increases by the largest OSP during the respective benchmark periods so that OSPs will not be subjected to an artificially elevated "notification" burden because they remain tied to a benchmark which no longer accurately reflects the costs of providing OSP services.

## **II.**

### **ARGUMENT**

#### **A. Consumer Safeguards Should Be Bolstered Through the Establishment of Benchmarks for OSP Rates and Charges Corresponding to Consumer Expectations**

As an alternative to the present implementation of BPP, the National Association of Attorneys General ("NAAG") has submitted a proposal to the Commission (the "NAAG Proposal") which endorses an OSP consumer notification requirement whenever an OSP's rates would exceed "dominant carrier rates" in order to "prevent unfair and deceptive practices and to



improve the opportunity for consumers to make informed choices in accordance with TOCSIA."<sup>5</sup>

A second alternative to BPP, the "CompTel Proposal", seeks the imposition of "a rate 'ceiling' on 0+ operator service calls."<sup>6</sup> The Commission has recognized, however, that "no single set of rate ceilings may be appropriate in all cases and that some OSP services . . . may nevertheless be subject to unusual but unavoidable costs."<sup>7</sup>

TRA supports the establishment of benchmarks for OSP rates and charges as a guide for the consuming public and agrees with the Commission that the touchstone for establishing OSP rate benchmarks must be "the reasonable expectations of consumers, for OSPs' interstate rates and associated charges that consumers pay for operator services."<sup>8</sup> TRA further supports the Commission's proposal to use a weighted average of the OSP rates of AT&T, MCI and Sprint as the starting point for determining benchmarks which will reflect actual consumer expectations.<sup>9</sup>

---

<sup>5</sup> Notice at ¶ 11. The warning message proposed by NAAG is as follows:

This may not be your regular telephone company and you may be charged more than your regular telephone company would charge for this call. To find out how to contact your regular telephone company, call 1-800-555-1212.

Notice at ¶ 31.

<sup>6</sup> Id.

<sup>7</sup> Notice at ¶ 28.

<sup>8</sup> Notice at ¶ 23.

<sup>9</sup> TRA notes that, since the benchmarks to be established by the Commission will reflect consumers' reasonable expectations for OSP rates and charges, no additional purpose would be served by requiring carriers to announce rates which fall within the benchmark range. Such rates, by necessity, would also reflect the reasonable expectation of consumers.

In light of the Commission's recognition that not all OSPs will face identical costs of providing service and that no one rate ceiling will be appropriate for all OSPs, TRA urges the Commission to maintain sufficient flexibility in setting the respective benchmarks to facilitate the ability to accommodate such non-standard costs while still remaining within the benchmark range. The Commission should carefully consider, after taking into account industry-wide comment on the topic, whether a 15% price margin, added to the weighted average of the rate charged by the largest OSPs, will adequately address the pricing flexibility which will be required by OSPs.

TRA wholeheartedly supports efforts to facilitate the making of informed choices by consumers and is in agreement with NAAG that consumers are entitled to notification in cases where an OSP's rates may exceed established benchmarks. TRA believes, however, that a variation of the "warning message" proposed by NAAG would better serve the ultimate goal of both the Commission and NAAG -- increasing consumer awareness -- while simultaneously providing a means by which consumers may compare the OSP rates in question with established benchmarks quickly and easily. TRA's proposed modification is discussed in more detail below.

**B.     The Commission Should Adopt a Consumer-focused  
Notification Procedure for OSP Rates Exceeding  
Established Benchmarks**

TRA agrees with the Commission that consumers are entitled to notice that a carrier's rates may exceed established benchmarks for OSP calls; however, an obligation to

announce rates at the beginning of every call is unworkable as a practical alternative.<sup>10</sup> The Commission has identified no less than 528 permutations of OSP calls based upon a six-element criterion of common OSP call characteristics.<sup>11</sup> Each OSP may offer a variety of services to the consumer. A requirement to announce even an "average" per call rate before the type of OSP service to be provided has been identified by the consumer would significantly inconvenience the consumer by interposing a lengthy delay before the call could be initiated.<sup>12</sup> Further, any notification announcement which provides only a solitary dollar amount would not noticeably advance the Commission's goal of affording the consumer sufficient information on which to base an informed decision since the consumer would not be provided with additional information to place the rate in context. Indeed, a single "rate" announcement would not even alert the consumer that OSP rate benchmarks exist, much less that the carrier's rates exceed those benchmarks.

In order that any such notice may be meaningful to the consumer without unduly delaying the processing of OSP calls, TRA urges the Commission to adopt an announcement

---

<sup>10</sup> TRA further believes that requiring carriers to submit cost support data whenever OSP rates exceed the benchmark would create a strain on Commission resources which is unjustified in this instance. The numerous choices of consumers in the competitive OSP market render such close Commission scrutiny of individual rates unnecessary. Similarly, absolute price ceilings for OSP rates and charges are neither necessary nor warranted so long as consumers possess the information to make informed choices regarding their use of OSP services.

<sup>11</sup> Notice at ¶ 26.

<sup>12</sup> An obligation that carriers access a database to determine initial and incremental rates, in advance of the call being processed, would likewise significantly extend call setup time for consumers and impose a burden on both carriers and consumers disproportionate to the benefits conferred on consumers. Indeed, TRA believes that its proposed announcement will better serve consumer protection interest by allowing the consumer to compare the benchmark rate to the particular OSP rate.

requirement pursuant to which carriers whose rates exceed the established benchmark for any one of the 528 permutations of OSP calls identified by the Commission must announce at the beginning of the call the percentage by which the call may exceed those benchmarks. A notification to the effect that, "this call may cost you up to \_\_\_% more than federally-established operator services rates" will advance the consumer protection goals of the Commission by conveying immediately to all consumers both the existence of OSP benchmarks and the possibility that the consumer may incur charges a specific percentage in excess of those benchmarks.

TRA further suggests that, in order to preclude carrier manipulation of rate information, the percentage to be announced must represent the largest amount by which any of the carrier's OSP rates exceeds the respective benchmarks. Having thus been presented with a "worst case" scenario, the consumer will have the ability to make a truly informed decision as to whether to place the call or select a different carrier.

**C.     The Commission Should Adopt Procedures for Periodically  
Adjusting OSP Benchmarks to Account for Rate Increases  
by the Largest OSPs** \_\_\_\_\_

Finally, TRA endorses the Commission's tentative conclusion that the benchmarks shall be determined annually in January, to become effective the following June, and that carriers may immediately meet rate increases by the largest OSPs occasioned by increased industry cost. TRA notes, however, that unless the Commission undertakes to periodically announce significant rate increases by the largest OSPs (and the resultant effect of those increases on the various benchmarks), other carriers who find it necessary to raise OSP rates in order to meet those same

industry costs would effectively remain bound by the benchmarks as originally announced. Accordingly, TRA urges the Commission to establish a procedure for periodically revising the benchmarks to adjust for rate increases by the largest OSPs in order that other OSPs not be burdened with compliance obligations tied to outdated OSP rate data.

### **III.**

#### **CONCLUSION**

By reason of the foregoing, the Telecommunications Resellers Association urges the Commission, consistent with the foregoing, to establish benchmarks for OSP rates which are consistent with, and based upon, consumer expectations for OSP service rates, to tailor a consumer notification process for OSPs providing service in excess of benchmark levels which will provide a true basis for comparison and enhance consumer decision-making ability and to adopt procedures for adjusting annual OSP benchmarks to meet necessary OSP rate increases.

Respectfully submitted,

**TELECOMMUNICATIONS  
RESELLERS ASSOCIATION**

By: Catherine M. Hannan  
Charles C. Hunter  
Catherine M. Hannan  
HUNTER & MOW, P.C.  
1620 I Street, N.W.  
Suite 701  
Washington, D.C. 20006  
(202) 293-2500

July 17, 1996

Its Attorneys